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09/964,099	09/26/2001	Kevin Packingham	1732	3001
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/964,099

Applicant(s)

PACKINGHAM ET AL.

Examiner

Gerald Gauthier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claim(s) 1** is rejected under 35 U.S.C. 102(b) as being anticipated by Hurst et al. (US 5,664,009).

Regarding **claim(s) 1**, Hurst discloses a voice command platform programmed to receive a call from a user (column 1, lines 13-16), to answer the call (column 3, lines 29-35), a speech signal representing a consolidated summary of counts of messages waiting for the user at a plurality of message portals (column 4, lines 39-48).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. **Claim(s) 2-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Metcalf (US 2002/0122541 A1) in view of Hurst.

Regarding **claim(s) 11**, Metcalf discloses a voice command platform (paragraph 0004) comprising:

a user communication interface for communicating with users via a telecommunications network (paragraph 0024);

a processor (5 on FIG. 1);

an application-processing module executable by the processor to process voice command applications, the voice command applications defining user-prompts, allowed grammars, and application logic (9 on FIG. 1);

a voice-processing module executable by the processor to recognize the allowed grammars in speech signals received from a user via the user communication interface, and to convert the user-prompts into speech signals for transmission to the user via the user communication interface (7 on FIG. 1);

a user profile store including, respectively for each of a plurality of users, a consolidated message summary indicating counts of messages waiting for the user at a plurality of message portals (8 on FIG. 1); and

consolidated-message-notification logic executable by the processor to communicate to a given user, via the user communication interface, , as reflected by the message summary for the given user (paragraph 0040).

Metcalf fails to disclose an indication of the counts of messages waiting for the user at the plurality of message portals.

However, Hurst teaches an indication of the counts of messages waiting for the user at the plurality of message portals (column 4, lines 39-48).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Metcalf using the teaching of notifying the message count as taught by Hurst.

This modification of the invention enables the system to have an indication of the counts of messages waiting for the user at the plurality of message portals so that the user would be aware of the new messages.

Regarding **claim(s) 2 and 12**, Metcalf discloses a voice command platform, further programmed to maintain a record of counts of messages waiting for the user at the plurality of message portals (paragraph 0040).

Regarding **claim(s) 3**, Metcalf discloses a voice command platform, wherein the plurality of message portals comprises a portal selected from the group consisting of (i) an e-mail portal, (ii) a voice mail portal, (iii) a fax portal, and (iv) an instant messaging portal (paragraph 0046).

Regarding **claim(s) 4, 14 and 20**, Metcalf discloses a voice command platform, further programmed to receive update signals from the plurality of message portals, the update signals indicating updates of counts of messages waiting for the user at the plurality of message portals (paragraph 0040).

Regarding **claim(s) 5**, Metcalf discloses a voice command platform, further programmed to update the record based on the update signals (paragraph 0040).

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Regarding **claim(s) 6, 15 and 21**, Metcalf discloses a voice command platform, further programmed to request message-waiting updates from the plurality of message portals, wherein the voice command platform receives the update signals in response (paragraph 0040).

Regarding **claim(s) 7 and 19**, Metcalf discloses a voice command platform, wherein the voice command platform is programmed to periodically poll the plurality of message portals for the message-waiting updates (paragraph 0040).

Regarding **claim(s) 8 and 18**, Metcalf discloses a voice command platform, further programmed to personalize the consolidated summary based on a notification profile maintained for the user (paragraph 0034).

Regarding **claim(s) 9 and 22**, Metcalf discloses a voice command platform, wherein the notification profile for the user indicates parameters to include in the consolidated summary, and wherein the platform therefore includes those parameters in the consolidated summary (paragraph 0036).

Regarding **claim(s) 10**, Metcalf discloses a voice command platform, wherein the notification profile for the user indicates user-specific name of at least one of the message portals, and wherein the consolidated summary refers to the message portal by the user-specific name (paragraph 0042).

Regarding **claim(s) 13**, Metcalf discloses a voice command platform, wherein: the processor receives update-messages from the plurality of message portals, the update messages indicating updated counts of messages waiting at the message portals for at least one user (paragraph 0040); and

based on the update-messages, the processor updates the consolidated message summary for at least one user (paragraph 0040).

Regarding **claim(s) 16 and 23**, Metcalf discloses a voice command platform, wherein the user communication interface communicates with at least some users over a communication path comprising a wireless communication link (paragraph 0024).

Regarding **claim(s) 17**, Metcalf discloses a method (paragraph 0004) comprising:

receiving from each of a plurality of separate message-portals a respective message-waiting count for a common user (paragraphs 0052 and 0053);

receiving a voice call from the common user (paragraph 0024); and

presenting to the common user a spoken message (paragraph 0040).

Metcalf fails to disclose a summary of the respective message-waiting counts for the plurality of separate message portals.

However, Hurst teaches a summary of the respective message-waiting counts for the plurality of separate message portals (column 4, lines 39-48).



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Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Metcalf using the teaching of notifying the message count as taught by Hurst.

This modification of the invention enables the system to have a summary of the respective message-waiting counts for the plurality of separate message portals so that the user would be aware of the new messages.

### ***Response to Arguments***

7. Applicant's arguments with respect to **claim(s) 1-23** have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gerald Gauthier/  
Primary Examiner  
Art Unit 2614

GG  
September 25, 2007